

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 90-559-S & 90-560-S - ORDER NO. 91-597 ✓

JULY 24, 1991

IN RE:	Application of Fripp Island)	ORDER DENYING
	Sewer System, Inc. and Harbor)	PETITION FOR
	Island Sewer System, Inc. for)	REHEARING AND
	Increases in Sewer Rates.)	RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Petition for Rehearing and Reconsideration of Order No. 91-413 filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate). Our Order No. 91-413 approved the consolidation of Fripp Island Sewer System, Inc. and Harbor Island Sewer System, Inc. (the Companies), and approved a new schedule of rates and charges for these Companies.

The Consumer Advocate cites basically two grounds for his petition. First, the Consumer Advocate complains of the Commission's treatment of the Companies' income taxes. Second, the Consumer Advocate cites the Commission's failure to address the issue of "additional property taxes." After careful consideration of the testimony and the record of this case, the Commission has determined that the Consumer Advocate's Petition must be denied.

First, the Consumer Advocate alleges that the Commission's decision regarding the Company's taxable income is not supported by

adequate findings of fact, and substantial evidence pursuant to S.C. Code Ann. §§1-23-350 and 1-23-380. The Commission rejects this allegation.

Both the Consumer Advocate and the Fripp Island Property Owners' Association (FIPOA) proposed that the Commission should recognize the effect of net operating loss carryovers on the Company's taxable income. The Commission Staff, however, through the testimony of Curtis Price and a portion of Hearing Exhibit No. 8 (Accounting Exhibit No. A 4) presented the calculation of the Companies' income tax liability for the test year using a step rate, and on a stand alone basis. As we stated in Order No. 91-413, the Staff recommendation, was, in our opinion, the appropriate recommendation for adoption, since in our opinion, the Staff recommendation more accurately reflected the effect of the proposed increase with related tax effects. We simply gave the Staff position greater weight, and deemed it more credible than the Consumer Advocate-FIPOA position. The weight and credibility assigned to the evidence presented is a matter peculiarly within the province of the Commission. Greyhound Lines, Inc. v. South Carolina Public Service Commission, 274 S.C. 161, 262 S.E.2d 18 (1980); Hamm v. American Telephone and Telegraph Company, ___ S.C. ___, 394 S.E.2d 842 (1990).

Further, with regard to the Consumer Advocate's argument regarding the treatment of Fripp and Harbor on a "stand alone" basis, the Commission holds that Order No. 91-413 at 15 accurately reflects the Commission's position on this point. Also, the

Consumer Advocate's citation to Fripp's last rate Order (Order No. 84-890) is unconvincing and without merit. Although the Consumer Advocate is correct in noting the Commission's mention of the effect of past operating losses on taxable income (Order No. 84-890 at 3), the Consumer Advocate failed to disclose that, in that case, no income taxes could be calculated in any event since, even after the effect was given to the increase, the Company showed a net tax loss for the test year. In addition, the Commission need not follow the same approach in every case. The decision of an administrative agency must be sustained if there is substantial evidence to support it. Lark v. Bi-Lo, 276 S.C. 130, 276 S.E.2d 304 (1981); Hamm v. American Telephone and Telegraph Company, supra. Clearly, the Commission's decision on income taxes was supported by adequate findings of fact and substantial evidence.

Second, the Consumer Advocate complains that Order No. 91-413 does not address the issue of additional property taxes as referred to in the Consumer Advocate's Brief at 7. See Hearing Exhibit 3. The Consumer Advocate is correct in his assertion. However, it should be noted that the Commission considered these expenses, but believes they are not properly includable in cost of service for this rate case. Since the tax documents were submitted to the Commission only two days before the hearing in this matter, the taxes were impossible to audit by the Commission Staff. The Commission, therefore, excluded mention of these monies from rate Order No. 91-413, but herein holds that such "additional property taxes" may not be included because of lack of evidentiary support.

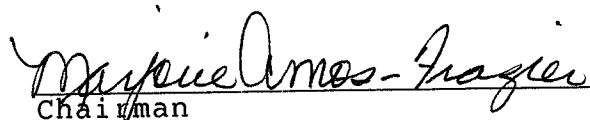
Because of the above-stated reasoning:

IT IS THEREFORE ORDERED:

1. That the Consumer Advocate's Petition for Rehearing and Reconsideration of Order No. 91-413 is denied.

2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)